

14.2 COVERAGE: This policy applies to the personnel of all PG&E Consultants, Contractors and Subcontractors performing any Work or services at PG&E offices and/or any other PG&E facilities.

14.3 POLICY:

14.3.1 PG&E may deny access to, or remove from, its facilities the personnel of any Consultant, Contractor or Subcontractor, who PG&E has reasonable grounds to believe has:

14.3.1.1 Engaged in alcohol abuse or illegal drug activity which in any way impairs PG&E's ability to maintain safe work facilities, to protect the health and well-being of PG&E employees, customers, and the general public, and to promote the public's confidence in PG&E's service and operations; or

14.3.1.2 Been found guilty, pled guilty or pled nolo contendere to a charge of sale or distribution of any illegal drug or controlled substance as defined under Federal or California law within the past five years, unless the criminal record was later expunged or sealed by a court order.

14.3.2 The following activities are prohibited at all facilities owned or leased by PG&E:

14.3.2.1 Possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances as defined under Federal or California law;

14.3.2.2 Possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

14.3.3 Where reasonable cause exists that paragraph 14.3.2 of this policy has been violated, the Consultant shall take appropriate actions to determine if there has, in fact, been a violation. If Consultant determines that there has been a violation, then Consultant will remove such individual from PG&E's premises.

14.3.4 Any individual who has been denied access to, or removed from, PG&E facilities for violating this policy may obtain permission to enter or reenter provided the individual establishes, to the satisfaction of their employer and PG&E, that the previous activity which formed the basis for denying access or removal has been corrected and his or her future conduct will conform with this policy. PG&E retains the right of final approval for the entry or reentry of any individual previously denied access to or removed from PG&E facilities.

15.0 LAWFUL DISPOSAL OF SAMPLED AND OTHER WASTE

(Not Applicable)

16.0 OWNERSHIP OF DELIVERABLES: PG&E shall own all data, reports, information, manuals, or other written, recorded, photographic or visual materials, or other tangible deliverables produced in the performance of this Contract and delivered to PG&E, excluding "Consultant Materials" as defined below ("Deliverables"). Consultant shall retain an irrevocable, perpetual, royalty free license to use the deliverables, subject to the confidentiality provisions of Section 25 of these General Conditions. PG&E grants Consultant a royalty free, irrevocable, non-transferable, non-exclusive license to use the deliverables without attribution to PG&E. Consultant shall retain all right, title, and interest in and to all methodologies, processes, techniques, ideas, concepts, trade

secrets, know-how and other intellectual property (including a non-Client specific version of any deliverables) which may have been used by Consultant in the production of the deliverables or discovered or created by Consultant as a result of its provision of services (collectively, "Consultant Materials"). Subject to the confidentiality restrictions contained in Section 25, Consultant may use the deliverables and the Consultant Materials for any purpose.

- 17.0 **PROPRIETARY RIGHTS:** Except for Consultant Materials, PG&E shall own all proprietary rights, including, but not limited to, exclusive patent and copyright rights, in and to any and all inventions, software, works of authorship, designs or improvements of equipment, tools or processes incorporated in the Deliverables, including the items referenced in Section 16, "Ownership of Deliverables" (collectively, the "Developments"), conceived, developed, implemented, or produced by Consultant in the performance of this Contract. PG&E will have a nonexclusive, non-transferable, irrevocable, perpetual license to use any Consultant Materials included in the Deliverables for PG&E's own internal use as part of those Deliverables.
- 18.0 **USE AND REPRODUCTION RIGHTS:** If and to the extent that Consultant retains any preexisting rights in any materials furnished hereunder, including Developments, Consultant hereby grants to PG&E the irrevocable, perpetual, non-exclusive, worldwide, royalty free right and license to (i) make, use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and derivative works thereof in connection with PG&E's business and (ii) authorize others to do any or all of the foregoing in connection with PG&E's business. Any claims of Consultant to proprietary rights in materials furnished hereunder must be expressly set forth in this Contract or shall have been previously disclosed to PG&E in writing.
- 19.0 **INFRINGEMENT PROTECTION:** Consultant represents to PG&E that the material to be prepared under this Contract will not infringe upon the copyright, patent or license, or otherwise violate the proprietary rights, including trade secret rights, of any person or entity. Consultant agrees to indemnify and hold PG&E, its parent company, subsidiaries and/or affiliates, harmless from and against any and all liabilities, costs and damages arising out of any such infringement, and from any suit, demand or claim made against PG&E, its parent company, subsidiaries and/or affiliates, alleging any such infringement or violation. In addition to the foregoing, if there is such a suit, demand or claim, Consultant agrees, as soon as possible, to either procure for PG&E the right to continue using the material, replace the material with non-infringing material or modify it so it becomes non-infringing; provided, however that the replaced or modified material shall be equal to that contracted for hereunder. Consultant further agrees to pay any judgment or reasonable settlement offer resulting from a suit, demand or claim, and pay any reasonable attorney's fees incurred by PG&E in defense against such suit. This infringement indemnity does not cover claims arising from: the combination of such materials with products or services not provided by Consultant; the modification of such materials by any person other than Consultant; Deliverables complying with or based upon: (1) designs provided by or at the direction of PG&E or (2) specifications or other information provided by or at the direction of the PG&E; or use of systems, materials or work in a manner not permitted or contemplated under this Contract.
- 20.0 **COPYRIGHT REGISTRATION:** Notice of PG&E copyright ownership shall be placed by Consultant on all reports, information or instructional manuals, computer programs or other written, recorded, photographic or visual materials or other deliverables to which PG&E has the right of such ownership as provided in this Contract. Such notice shall be placed on the materials in a manner and location as to give reasonable notice of the claim of copyright, and shall consist of the copyright symbol or the word "Copyright" followed by the year in which the material is produced and the words "Pacific Gas and Electric Company". Application for copyright registration shall be the responsibility of PG&E.
- 21.0 **ROYALTIES AND LICENSE FEES:** Royalties, license fees or other charges for patents, copyrights and other intellectual property for designs, processes, technology, published or unpublished data, information or technical materials including, but not limited to, manuals, computer programs, or other deliverables furnished by Consultant, or for processes or methods

employed by Consultant in performing the services, shall be included in the Contract price, unless licensed under separate agreement to PG&E or stated otherwise in a CWA.

- 22.0 **DELIVERY AND RETENTION OF RECORDS:** Unless PG&E and Consultant agree otherwise with respect to a particular Deliverable, all Deliverables furnished by Consultant under this Contract will not contain Consultant's name or other information that could identify Consultant as the source. With respect to any CWA that contemplates the delivery of a Deliverable that does contain Consultant's name or other information that could identify Consultant as the source, the parties understand that the CWA may specify that Consultant's consent is required before Deliverables are disclosed to third parties. In any event, PG&E shall not provide any advice given or Deliverable issued (branded or unbranded) by Consultant to any Financial Participant without Consultant's prior written consent. The term "Financial Participants" means any parties that are providing or may provide insurance, financing, capital in any form, a fairness opinion, or selling or underwriting securities in connection with any transaction that is the subject of the Work or any counterparty to an anticipated transaction or dispute or any parties which have or may obtain a financial interest in PG&E or an anticipated transaction. Unless specified otherwise in the applicable CWA, during the course of conducting its business, PG&E may provide any advice given or report issued by Consultant to any third party (other than a Financial Participant) who is bound by confidentiality obligations with PG&E. PG&E acknowledges that Consultant may (but is not required to) include an appropriate disclaimer on Deliverables disclaiming liability for third party reliance, provided that Consultant's failure to do so shall not imply an assumption of liability or otherwise modify the terms of this Contract. To the extent PG&E does not otherwise specifically request delivery of records or results, Consultant agrees to retain all records and results of Work performed under this Contract for a period of not less than two years from the date the Work is accepted by PG&E. At PG&E's request Consultant will deliver a copy of any or all original field notes, investigative notes, tests, photographs, records, calculations, summaries, reports, and records produced and collected in the course of the Work performed under this Contract. PG&E acknowledges that no reliance shall be placed on draft reports, conclusions or advice, whether oral or written, issued by Consultant as the same may be subject to further work, revision and other factors which may result in such drafts being substantially different from any final report or advice issued. Because Consultant will be acting as independent experts or consultants, its reports or advice must be objective and impartial. While Consultant will be prepared to discuss draft reports, which do not constitute its final opinion, the content of the Consultant's final report is a matter for the Consultant alone. Any advice given or report issued by the Consultant is provided solely for PG&E's use in connection with this Engagement. Even when Consultant's consent has been provided, PG&E shall not provide any advice given or report issued by Consultant to any Financial Participant under circumstances where PG&E should reasonably have anticipated that such Financial Participant would assume the advice or report was suitable to rely upon. In no event, regardless of whether Consultant's consent has been provided, shall Consultant have or assume any responsibility to any third party to which any advice or report is disclosed or otherwise made available. Notwithstanding the above, Consultant understands that its work may be used during regulatory proceedings, and consents to the use of Consultant written opinions, written conclusions and written reports, if any such written opinions, written conclusions or written reports are identified in the CWA as specifically under this provision and subject to disclosure in such proceedings.
- 23.0 **PUBLIC RELEASE OF RESULTS:** Consultant agrees not to release any results of the Work without first providing PG&E with the material sought to be released and a description of the publication for PG&E's prior approval. Consultant further agrees that no release shall present any material findings not reasonably inferable from the data. Any public release shall acknowledge PG&E's sponsorship of the Work.
- 24.0 **CONSULTANT'S USE OF PG&E PROPERTY:** All records, reports, computer programs, written procedures and similar materials, documents or data, in whatever form, provided by PG&E for Consultant's use in the performance of services under this Contract shall remain the confidential

property of PG&E and shall be returned to PG&E immediately upon completion of Consultant's use for the performance of the Work or earlier upon the request of PG&E. Consultant may retain an archival copy of materials as required by law, regulation or professional standards, provided that such material retained will be subject to Consultant's confidentiality obligations.

- 25.0 **CONFIDENTIALITY:** In the course of performing the services under this Contract, Consultant may have access to confidential commercial or personal information concerning, but not limited to, technological, ratemaking, legislative and personnel matters and practices of PG&E, its parent company, subsidiaries, affiliates, or members of the public. Consultant agrees not to disclose any such confidential information or otherwise make it available to any other person, including any affiliate of PG&E that produces energy or energy-related products or services, without the prior written approval of PG&E. Consultant agrees to make a good faith effort to exclude any Consultant Materials from its Deliverables that would create confidentiality concerns for Consultant if PG&E disclosed such Deliverables to other consulting firms, or released that information into the public domain through regulatory or other required disclosure.

Consultant's proprietary software, tools, methodologies, techniques, ideas, discoveries, inventions, know-how and any other oral or written information identified as confidential by Consultant are confidential information of Consultant. Consultant's confidential information includes Consultant's confidential information owned prior to beginning the engagement to which this Contract relates as well as Consultants confidential information developed during the course of this engagement. Consultant will describe in the CWA the kinds of information considered to be confidential or proprietary. Each party shall use Confidential information of the other party only in furtherance of the purposes of this Contract and shall not disclose such Confidential Information to any third party without the other party's prior written consent, provided that PG&E may disclose such information to its outside auditors, legal counsel, regulators and consultants (excluding Financial Participants, defined in paragraph 22) who are bound by confidentiality obligations with PG&E. Each party agrees to take reasonable measures to protect the confidentiality of the other party's confidential information and to advise their employees of the confidential nature of the Confidential Information and of the prohibitions herein. Consultant and PG&E each agree to require that the other party's Confidential Information be kept in a reasonably secure location.

In the event that either party is in doubt whether certain Information is Confidential Information, each party shall treat that information as Confidential Information.

Notwithstanding anything to the contrary contained in this Contract, neither party shall be obligated to treat as confidential any information disclosed by the other party (the "Disclosing Party") which: (1) is rightfully known to the recipient prior to its disclosure by the Disclosing Party; (2) is released by the Disclosing Party to any other person or entity (including governmental agencies) without restriction; (3) is independently developed by the recipient without any reliance on Confidential Information; or (4) is or later becomes publicly available without violation of this Contract or may be lawfully obtained by a party from any nonparty. Notwithstanding the foregoing, either party will be entitled to disclose Confidential Information of the other to a third party as may be required by law, statute, rule or regulation, including any subpoena or other similar form of process, provided that (and without breaching any legal or regulatory requirement) the party to which the request is made provides the other party with prompt written notice and allows the other party to seek a restraining order or other appropriate relief.

- 26.0 **PUBLIC TESTIMONY:** If requested by PG&E, Consultant shall provide testimony before any federal, state or local court, regulatory body or any other public agency to substantiate any Work performed or data, reports, or materials supplied to PG&E. Reasonable fees for such testimony will be negotiated at that time.
- 27.0 **WARRANTY:** Consultant warrants to PG&E that the Work under this Contract shall be performed with the degree of skill and care that is required by current, good and sound professional procedures and practices, and in conformance with generally accepted professional standards

prevailing at the time the Work is performed. Consultant warrants to PG&E that the Work under this Contract shall be performed in a manner consistent with the terms and conditions of this Contract and in accordance with the Standards for Consulting services established by the American Institute of Certified Public Accountants ("AICPA") THE WARRANTIES IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR WHETHER ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM, USAGE IN THE TRADE OR PROFESSION OR OTHERWISE, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. PG&E accepts and acknowledges that Consultant has not made any warranties or guarantees of any nature with respect to the results, outcome or final developments in this matter or with respect to the economic, financial or other results which PG&E may experience as a result of the provision of the services under this Contract."

28.0 INDEMNIFICATION: Contractor shall indemnify, hold harmless and defend PG&E, its affiliates, subsidiaries, parent company, officers, managers, directors, agents, and employees, from and against all claims, demands, losses, damages, costs, expenses, and liability (legal, contractual, or otherwise), which arise from or are in any way connected with any:

- (i) injury to or death of persons, including but not limited to employees of PG&E or Contractor;
- (ii) injury to property or other interests of PG&E, Contractor, or any third party;
- (iii) violation of local, state or federal common law, statute or regulation, relating to environmental laws or regulations; or
- (iv) strict liability imposed by any law or regulation;

so long as such injury, violation, or strict liability (as set forth in (i) - (iv) above) arises from or is in any way connected with Contractor's performance of, or failure to perform, this Contract, to the extent caused by the negligent acts or omissions or willful misconduct of Contractor, its employees, agents or Subcontractors.

29.0 LIMIT OF LIABILITY

- 29.1 INCIDENTAL AND CONSEQUENTIAL DAMAGES: NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES OR PROFITS, COMMITMENTS TO SUBCONTRACTORS, RENTAL OR LEASE AGREEMENT(S), AND PERSONAL SERVICES CONTRACTS, UNLESS EXPRESSLY AUTHORIZED IN WRITING BY PG&E.
- 29.2 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, FOR ANY AMOUNT IN EXCESS OF THE FEES PAID TO CONSULTANT FOR SERVICES PROVIDED UNDER THIS CONTRACT OVER THE TRAILING TWELVE (12) MONTHS. HOWEVER,

THIS LIMIT SHALL NOT APPLY TO DAMAGES RESULTING FROM INDEMNITY PROVIDED UNDER SECTION 28.0 AND INFRINGEMENT PROTECTION PROVIDED UNDER SECTION 19.0.

30.0 INSURANCE REQUIREMENTS

Consultant shall maintain the following insurance coverage.

30.1 Workers' Compensation and Employers' Liability

- 30.1.1 Workers' Compensation insurance or self-insurance indicating compliance with any applicable labor codes, acts, laws or statutes, state or federal, where Consultant performs Work.
- 30.1.2 Employers' Liability insurance shall not be less than \$1,000,000 for injury or death each accident.

30.2 Commercial General Liability

- 30.2.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Commercial General Liability Coverage "occurrence" form.
- 30.2.2 The limit shall not be less than \$1,000,000 each occurrence/\$2,000,000 aggregate for bodily injury, property damage and personal injury.
- 30.2.3 Coverage shall: a) Name PG&E as additional insured with respect to liability arising out of or connected with the Work performed by or for the Consultant. (ISO Form or equivalent is preferred). In the event the Commercial General Liability policy includes a "blanket endorsement by contract," the following language added to the certificate of insurance will satisfy PG&E's additional insured requirement: "PG&E with respect to liability arising out of the work performed by the Consultant are additional insureds under a blanket endorsement; b) The Consultant's insurance is primary with respect to Consultant's obligations under this Contract.

30.3 Business Auto

- 30.3.1 Coverage shall be at least as broad as the Insurance Services Office (ISO) Business Auto Coverage form covering Automobile Liability, hired and non-owned vehicles.
- 30.3.2 The limit shall not be less than \$1,000,000 each accident combined single limit for bodily injury and third party property damage.

30.4 Professional Indemnity Insurance

Coverage shall cover errors, omissions or negligent acts in the delivery of products, services and licensed programs under this agreement. Such errors and omissions insurance shall include coverage for claims and losses with respect to network risks (such as failure to prevent a party from unauthorized access/use, introduction of malicious code into data systems damage, loss and theft of data, or failure to properly handle, manage, store, destroy, or otherwise control third party corporate information).

The limit of insurance shall not be less than \$ 5,000,000 per claim.

The policy shall have a retroactive coverage date no later than the effective date and shall remain in effect for a period of 3 years after termination of this Agreement.

30.5 Additional Insurance Provisions

- 30.5.1 Before commencing performance of Work, Consultant shall furnish PG&E with certificates of insurance of all required insurance for Consultant.
- 30.5.2 Consultant shall endeavor to provide PG&E at least thirty (30) days notice of any cancellation.
- 30.5.3 PG&E uses a third party vendor, Exigis, to confirm and collect insurance documents. Certificates of insurance shall be signed and submitted by a person authorized by that insurer to issue certificates of insurance on its behalf, and submitted via email or fax to:

Certificate Holder:

PG&E

c/o EXIGIS LLC

support@exigis.com

Fax: 646-755-3327

- 31.0 **FORCE MAJEURE:** Neither PG&E nor Consultant shall be considered in default in the performance of its obligations under this Contract, except obligations to make payments hereunder for Work previously performed, to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of the affected Party. In the event either Party claims that performance of its obligations was prevented or delayed by any such cause, that Party shall promptly notify the other Party of that fact, and of the circumstances preventing or delaying performance. Such Party so claiming a cause-delayed performance shall endeavor, to the extent reasonable, to remove the obstacles which preclude performance.
- 32.0 **HAZARDOUS MATERIALS:** The California Health and Safety Code requires businesses to provide warnings prior to exposing individuals to materials listed by the Governor as chemicals "known to the State of California to cause cancer, birth defects or reproductive harm." PG&E uses chemicals on the Governor's list at many of its facilities. In addition, many of these chemicals are present at non-PG&E-owned facilities and locations. Accordingly, in performing the Work or services contemplated under this Contract, Consultant, its employee, agents, and Subcontractors may be exposed to chemicals on the Governor's list. Consultant is responsible for notifying its employees, agents, and Subcontractors that Work performed hereunder may result in exposures to chemicals on the Governor's list.
- 33.0 **TAX WITHHOLDING:** Consultant represents and warrants that it will withhold all taxes, if any, which are required to be withheld under applicable law with respect to payments to persons hired by Consultant who perform services for PG&E. Consultant shall indemnify and hold PG&E harmless, on an after-tax basis, for any liability incurred by PG&E as a result of Consultant's failure to institute any such required withholding.

34.0 INJURY AND ILLNESS PREVENTION PROGRAM: To the extent required by law, in the performance of the Work under this Contract, Consultant acknowledges that it has an effective Injury and Illness Prevention Program which meets the requirements of all applicable laws and regulations, including but not limited to Section 6401.7 of the California Labor Code. Consultant shall ensure that any Subcontractor hired by Consultant to perform any portion of the Work under this Contract shall also have an effective Injury and Illness Prevention Program. If the Consultant has any employees in California, even if those employees do not perform Work under this Contract, the attached Compliance Certificate (Exhibit 3) shall be executed by the person with the authority and responsibility for implementing and administering such Injury and Illness and Prevention Program.

35.0 COMPLIANCE WITH LAWS

35.1 Consultant shall comply with all applicable federal, state and local laws, rules and regulations, and shall obtain all applicable licenses and permits for the conduct of its business and the performance of the Work called for in this Contract.

35.2 In accordance with Section 7912 of the California Public Utilities Code, Consultant agrees to report annually to PG&E the number of California residents employed by Consultant, calculated on a full-time or full-time equivalent basis, who are personally providing services to PG&E.

36.0 CHOICE OF LAWS: This Contract shall be construed and interpreted in accordance with the laws of the State of California, excluding any choice of law rules which may direct the application of the laws of another jurisdiction. Any controversy or claim arising out of or in any way relating to this Contract which cannot be amicably settled without court action shall be litigated in a California State Court of competent jurisdiction; or if jurisdiction over the action cannot be obtained in a California State Court, in a Federal Court of competent jurisdiction situated in the State of California.

37.0 DISPUTE RESOLUTION

37.1 PROCEDURE: The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Contract promptly by negotiations between a vice president of PG&E or his or her designated representative and an executive of similar authority of Consultant. Either Party may give the other Party written notice of any dispute. Within twenty (20) days after delivery of said notice, the executives shall meet at a mutually acceptable time and place, and thereafter as often as they reasonably deem necessary to exchange information and to attempt to resolve the dispute. If the matter has not been resolved within thirty (30) days of the first meeting, either Party may initiate a mediation of the controversy.

37.2 CONFIDENTIALITY: All negotiations and any mediation conducted pursuant to this clause are confidential and shall be treated as compromise and settlement negotiations, to which Section 1119 of the California Evidence Code shall apply, and Section 1119 is incorporated herein by reference.

37.3 PRELIMINARY INJUNCTION: Notwithstanding the foregoing provisions, a Party may seek a preliminary injunction or other provisional judicial remedy if in its judgment such action is necessary to avoid irreparable damage or to preserve the status quo.

37.4 CONTINUANCE OF WORK: Each Party is required to continue to perform its obligations under this Contract pending final resolution of any dispute arising out of or relating to this Contract.

38.0 NON-WAIVER: The waiver by either Party of any breach of any term, covenant or condition contained in this Contract, or any default in the performance of any obligations under this Contract, shall not be deemed to be a waiver of any other breach or default of the same or any other term, covenant, condition or obligation. Nor shall any waiver of any incident of breach or default constitute a continuing waiver of the same.

39.0 ENFORCEABILITY: In the event that any of the provisions, or application of any of the provisions, of this Contract are held to be illegal or invalid by a court of competent jurisdiction or arbitrator/mediator, PG&E and Consultant shall negotiate an equitable adjustment in the provisions of this Contract with a view toward effectuating the purpose of this Contract. The illegality or invalidity of any of the provisions, or application of any of the provisions, of this Contract will not affect the legality or enforceability of the remaining provisions or application of any of the provisions of the Contract.

40.0 CANCELLATION AND TERMINATION OF CONTRACT

40.1 CANCELLATION FOR CAUSE:

40.1.1 PG&E may, at its option, cancel or suspend this Contract for cause including, but not limited to, the following situations:

(1) the failure, refusal or inability of the Consultant to perform the Work in accordance with this Contract for any reason (except as specified in Section 31, "Force Majeure"); or

(2) Consultant has become insolvent, has failed to pay its bills, or has had checks for payment of its bills returned from suppliers and Subcontractors due to insufficient funds; or

(3) a legal action is placed against Consultant which, in PG&E's opinion, may interfere with the performance of the Work; or

(4) in PG&E's opinion, the Work will not be completed in the specified time and PG&E has requested Consultant to take steps necessary to accomplish the required progress and completion, and Consultant has failed to do so.

In addition PG&E may at its option and without prejudice to its other rights, take over and complete all or part of the Work.

40.1.2 In the event of such cancellation, PG&E shall pay Consultant for services satisfactorily performed prior to the date of cancellation. In no event shall PG&E be liable for lost or anticipated profits or overhead on uncompleted portions of the Work. Any reports, drawings or other documents prepared for PG&E prior to the effective date of such cancellation shall be delivered to PG&E by Consultant prior to PG&E's release of its final payment to Consultant; provided that such reports, drawings and other documents shall be provided AS IS without any warranty. Consultant shall not enter into any agreements, commitments or Subcontracts which would incur significant cancellation costs without prior written approval of PG&E. Such written approval is a condition precedent to the payment of any cancellation charges by PG&E.

40.1.3 LABOR DISPUTE: In the event of a labor dispute or strike by Consultant's or its Subcontractors' employees which threatens the progress or cost of Work, or PG&E's labor relations, or which disrupts PG&E's operations, or results in a secondary boycott at PG&E's facilities, PG&E reserves the right to suspend or discontinue the Work of the Consultant or any Subcontractor, or cancel the

Contract for cause. This paragraph shall be applicable whether or not any Consultant or Subcontractor is directly involved in a labor dispute.

- 40.2 **TERMINATION FOR PG&E'S OR INDEPENDENCE REASONS:** PG&E may suspend or terminate the Contract, without cause and upon ten business days' written notice to Consultant. Either PG&E or Consultant may suspend performance or terminate the Contract if circumstances arise such that continued performance would render Consultant unable to honor the professional independence standards to which Contractor adheres. Consultant thereupon shall take whatever action with respect to performance of the Work as will tend to minimize its claim against PG&E. In the event of termination, PG&E shall be liable to Consultant only for the compensation earned on the Work performed to the date of termination. Consultant shall not be entitled to any payment for lost or anticipated profits or overhead on uncompleted portions of the Work. Any reports, drawings or other documents prepared for PG&E prior to the effective date of such termination shall be delivered to PG&E by Consultant prior to PG&E's release of its final payment to Consultant.
- 41.0 **INTEGRATION:** This Contract constitutes the entire agreement and understanding between the Parties as to the subject matter of the Contract. It supersedes all prior or contemporaneous agreements, commitments, representations, writings, and discussions between Consultant and PG&E, whether oral or written, and has been induced by no representations, statements or agreements other than those expressed herein. Neither Consultant nor PG&E shall be bound by any prior or contemporaneous obligations, conditions, warranties or representations with respect to the subject matter of this Contract. If there is a conflict between the terms contained in the General Conditions, the Specific Conditions, and/or a CWA, the following order of precedence shall apply: (i) the CWA, (ii) the Specific Conditions and then, (iii) the General Conditions.
- 42.0 **SURVIVAL:** The provisions of this Contract which by their nature should survive expiration, cancellation or other termination of this Contract, including but not limited to provisions regarding warranty, indemnity, confidentiality and availability of information, shall survive such expiration, cancellation or other termination.
- 43.0 **CPA NOTICE.** Consultant is owned by professionals who hold CPA licenses as well as by professionals who are not licensed CPAs. Depending on the nature of the Work, non-CPA owners may be involved in providing Work under this Agreement.